

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2056

JENNIFER OLDHAM,
Appellant

v.

THE PENNSYLVANIA STATE UNIVERSITY;
WIESLAW R. GLON, as agent for Penn State in his official
capacity and in his individual capacity; CHRISTOPHER J.
HARRIS, Esq., as agent for Penn State in his official
capacity; GEORGE G. ABASHIDZE, as agent for Penn State
in his official capacity and in his individual capacity

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. No. 4:20-cv-02364)
District Judge: Honorable Matthew W. Brann

Argued: March 23, 2023

Before: RESTREPO, PHIPPS, and ROTH, *Circuit Judges*

(Filed: May 29, 2025)

Cathy E. Crosson [ARGUED]
406 South Eastside Drive
Bloomington, IN 47401

Stephen Lindsay
LINDSAY LAW
46 Haywood Street
Asheville, NC 28801

Kerstin W. Sutton
3215 Deerchase Wynd
Durham, NC 27712

Counsel for Appellant

James A. Keller
Patrick F. Nugent
Amy L. Piccola [ARGUED]
Shane P. Simon
SAUL EWING
1500 Market Street
Centre Square West, 38th Floor
Philadelphia, PA 19102

*Counsel for Appellees Penn State University
and Christopher J. Harris*

Michael J. Engle
Jeffrey A. Lutsky [ARGUED]
Corey S. D. Norcross
STRADLEY RONON STEVENS & YOUNG
2005 Market Street
Suite 2600
Philadelphia, PA 19103

Counsel for Appellee Wieslaw R. Glon

Lee G. Valigorsky [ARGUED]
GLEASON CHERRY & CHERRY
1 North Franklin Street
P.O. Box 505
DuBois, PA 15801

Counsel for Appellee George G. Abashidze

OPINION OF THE COURT

PHIPPS, *Circuit Judge.*

This case arises from allegations that during a cross-country flight following a fencing tournament, a state university's assistant fencing coach sexually harassed and assaulted the woman in the seat next to him. That woman was also a member of the fencing community: she was a coach at a private fencing school that she owned. She alleges that when she told the university's head fencing coach about this incident, the coach rebuffed her, pressured her not to report it, and then along with the assistant coach initiated a retaliation campaign against her within the fencing community. Even more, she claims that when the university eventually investigated the

matter in response to her formal complaint, it confirmed the truth of her assertions but concluded that the assistant coach had not violated any university policy.

Based on those allegations, the private fencing coach sued the university, the two coaches, and the university's Title IX coordinator in the federal district where she resided, even though neither the university nor any of the sued employees resided in that state. She claimed that the defendants violated Title IX of the Education Amendments of 1972, and she also brought several state-law tort claims. All of the defendants moved to dismiss the complaint for failure to state a claim for relief, and all but one of the defendants – the assistant fencing coach – also challenged venue in at least one respect, such as by moving to dismiss the case for improper venue or by moving to transfer the case for either improper venue or the convenience of the parties. In response to those motions, the district court transferred the case to a new judicial district – partially to cure improper venue with respect to the head coach, the Title IX coordinator, and the state university, and partially for judicial efficiency with respect to the assistant coach.

After the transfer, the plaintiff amended her complaint, and the defendants moved to dismiss the claims against them. The transferee district court dismissed the entire suit. As a matter of first impression, it held that to bring a Title IX claim, a plaintiff must be within the zone of interests protected by that statute and that the plaintiff – as neither a student nor an employee of the university – was outside of that zone. As for the state-law tort claims, the transferee district court applied the choice-of-law rules of the transferee forum and dismissed all of those claims as untimely or implausible.

On *de novo* review, most of those conclusions are correct. A Title IX claim must be within the zone of interests protected by that statute. But the student-or-employee formulation of the Title IX zone-of-interests test is inaccurate, and under a correct understanding of the zone of interests protected by Title IX, the

private fencing coach’s Title IX claims against the university related to her exclusion from fencing events that were hosted or supervised by the university, as well as any aspects of the retaliation campaign that occurred or had harm therefrom manifested on campus, are within that zone. Also, many of the state-law tort claims are untimely or fail to state a plausible claim for relief. But because the claims against the university’s assistant fencing coach were transferred for judicial efficiency, the choice-of-law rules for the transferor, not the transferee, forum apply. And application of those rules allows for a longer statute of limitations such that the tort claims against the assistant coach are not time barred. Thus, as elaborated below, we will vacate in part, affirm in part, and remand for further proceedings.

**I. FACTUAL BACKGROUND
(AS ALLEGED IN THE AMENDED COMPLAINT)**

**A. The Return Flight from a Portland Fencing
Tournament**

In early December 2017, USA Fencing – the official national governing body for the sport of fencing in the United States¹ – held a North American Cup fencing competition in Portland, Oregon. Jennifer Oldham, the head coach and owner of a private fencing club in Durham, North Carolina, attended the tournament. George Abashidze, an assistant fencing coach at the Pennsylvania State University, also attended.

After the tournament, Oldham, Abashidze, and another member of the fencing community boarded a red-eye flight from Portland to Chicago and were seated in the same row.

¹ See Amateur Sports Act of 1978, Pub. L. No. 95-606, sec. 2, § 201, 92 Stat. 3045, 3050 (1978); USA Fencing, *United States Fencing Association Bylaws* § 2.1 (2024), <https://www.usafencing.org/by-laws> (choose “United States Fencing Association Bylaws – Effective September 15, 2024”) [<https://perma.cc/VEP5-QYLF>].

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